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October 17, 2014

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VIA MESSENGER

Jeff S. Jordan
Federal Election Commission
999 E Street NW
Washington, D.C. 20463

Re: MUR 6863

Dear Mr. Jordan:

As counsel to Alison Lundergan Grimes, Alison for Kentucky, Inc., and Robert C. Stolz III, Treasurer, (collectively, "Respondents") we write in response to a complaint filed with the Federal Election Commission (the "FEC" or "Commission") by Steve Robertson, Chairman of the Republican Party of Kentucky, on August 22, 2014 (the "Complaint"). The Complaint, which was triggered by a sensationalist newspaper article, incorrectly alleges that Respondents accepted a prohibited corporate contribution when it rented a motorcoach from Signature Special Event Services ("SSES") for less than the normal and usual charge. However, the Complaint is based on speculation, and relies on an incorrect application of Commission regulations. As the contemporaneous documents show, the Committee complied with Commission rules and paid SSES the normal and usual rental charge for a comparable commercial conveyance. Accordingly, the Commission should find that there is no reason to believe that the Respondents violated the Act or Commission rules, and promptly close this matter.

I. Factual Background

Alison Lundergan Grimes is the Secretary of State of the Commonwealth of Kentucky, and is a candidate for the United States Senate in Kentucky. She filed a Statement of Candidacy with the Commission on July 16, 2013. Alison for Kentucky (the "Committee") is her principal campaign committee. Her father, Gerald G. Lundergan, is the President of S.R. Holdings Co., Inc., which does business as Signature Special Event Services or SSES. According to its website, SSES is "North America's leading event rentals company."¹ SSES rents mobile kitchens, power generators, and other equipment in connection with special events.²

At the beginning of Secretary Grimes' campaign, the Committee needed a large vehicle to transport Secretary Grimes to campaign destinations across the state. Mr. Lundergan offered to

¹ Signature Special Event Services Website, www.eventservices.com (last visited Oct. 7, 2014).

² *Id.*

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rent the Committee a Class A RV owned by SSES, a 2003 Prevost that seats ten people.³ Because SSES did not operate the motorcoach for ordinary commercial passenger service, the Committee worked with SSES to obtain quotes from vendors in the region that were in the business of renting comparable motorcoaches commercially.⁴ One vendor, Staley Sales, LLC, in Madison, Tennessee, quoted a daily rental rate of \$150 to \$175 for the same make, model and year of the motorcoach owned by SSES.⁵ A second vendor, Northside RVs, in Lexington, Kentucky, quoted a daily rental rate of \$180 for a comparable Class A RV.⁶ Because these quotes did not include the cost of the driver that SSES would be providing, Respondents conducted further research to determine the normal and usual cost for hiring a driver. A third vendor, Star Coaches, quoted a daily rate of \$200 for a driver.⁷ Using the higher rental quote, the Committee arrived at a daily rate of \$380 to rent the motorcoach and driver, and paid SSES separately for fuel charges.⁸ The Committee also separately paid SSES for the graphic display on the motorcoach's exterior.⁹ The Committee reported these payments to the Commission as required by the Act and Commission rules. A schedule of these payments is attached as Exhibit C.

II. Legal Background and Analysis

A. Legal Background

Under the Federal Election Campaign Act (the "Act") and Commission regulations, when goods or services are provided at less than the usual and normal charge, it results in an in-kind contribution to the benefitting committee.¹⁰ However, the rules provide specific guidance for determining the proper rates that a committee must pay for "travel . . . on means of transportation that are not offered for commercial passenger service," to avoid receiving an in-kind contribution.¹¹ For travel on noncommercial transportation other than an aircraft, the proper rate is "the normal and usual fair or rental charge for a comparable commercial conveyance"¹² The Commission has explained that:

a "comparable commercial conveyance" is one that approximates the same class and type of the conveyance actually used, with similar features and amenities. *For example, when a campaign traveler uses a private bus, a "comparable commercial*

³ See Manu Raju, *The Grimes Family Discount*, Politico (Aug. 19, 2014).

⁴ See Exhibit A (Memorandum from Coley Stolz, Treasurer to Alison for Kentucky, Inc., Compliance File).

⁵ Exhibit B (Letter from Staley Sales, LLC to Jerry Lundergan (Sep. 5, 2013)).

⁶ Exhibit A.

⁷ *Id.*

⁸ *Id.*

⁹ See Raju, *The Grimes Family Discount*; see also Exhibit C.

¹⁰ See 11 C.F.R. § 100.52(d)(2).

¹¹ Travel on Behalf of Candidates and Political Committees, 68 Fed. Reg. 69,583, 69,583 (Dec. 15, 2003).

¹² 11 C.F.R. § 100.93(d).

*conveyance" would be a similar type of motor vehicle with similar amenities and features.*¹³

The law does not require a committee to determine the "normal and usual charge" with laser precision; the "normal and usual charge" for services is the "*commercially reasonable rate* prevailing at the time the services were rendered."¹⁴ When a political committee pays a service provider the full value of the transportation as determined under this rule, "no contribution is made by a service provider to a candidate or political committee."¹⁵

B. The Committee Paid the Normal and Usual Charge for Use of the Vehicle

The contemporaneous documents maintained by the Committee show that it paid the normal and usual charge for the vehicle, in full compliance with the law. The Committee obtained two quotes -- one for renting the exact same make, model and year, and the second for renting a comparable vehicle -- for \$150 to \$175 a day and \$180 a day, respectively. The Committee chose to pay the higher rate of \$180 a day. Because these quotes did not include the cost of a driver, Respondents conducted further research to determine the proper daily rate for payment of a driver, and based on a quote from a third vendor, determined that the normal and usual charge for the driver to be \$200 a day. Adding these figures, the Committee determined that the normal and usual charge for renting a motorcoach comparable to SSES's was \$380 a day, plus the cost of fuel, and it has paid SSES at this rate for its use of the motorcoach. Thus, Respondents have paid SSES the proper reimbursement rate under the rules, and have not received an in-kind contribution from SSES.

The Complaint argues that the Committee failed to pay the normal and usual charge, pointing to quotes that it purports to have obtained "for motor coach services similar to those currently provided to the Grimes Campaign by SSES."¹⁶ But the Complaint fails to establish that any of the quotes it relies upon are for a motorcoach of the same year and size, and with the same features and amenities as the motorcoach rented by the Committee. To the contrary, the Complaint would require Respondents to pay the rate for a newer, larger motorcoach with premium features and amenities that is in no way "the same class and type" as SSES's motorcoach. For example, one quote cited in the Complaint is for a top-of-the-line bus with twelve sleeping bunks that each have in-bunk TVs with DVD player, and rents at premium rates over \$2,700 per day.¹⁷ The motorcoach Respondents rent from SSES, on the other hand, "is

¹³ 66 Fed. Reg. at 69,590 (emphasis added).

¹⁴ See 11 C.F.R. § 100.52(d)(2).

¹⁵ *Id.* § 100.93(b).

¹⁶ Complaint at 5.

¹⁷ See Complaint, Exhibit C.

eleven years older and smaller” than such newer, larger premium busses.¹⁸ In fact, press reports indicate that the motorcoach Respondents rent from SSES has virtually no commercial value, and that “most companies would not have the vehicle in their fleet because it would not rent”¹⁹ The Commission has acknowledged that the age of a vehicle “may warrant a discount to the rental rate charged for short-term rentals of presumably new, or newer vehicles in relatively good repair.”²⁰ And even Paul S. Ryan, senior counsel with the reform group The Campaign Legal Center, acknowledged that it would be inappropriate to value the motorcoach rented by the Committee the same as a new bus.²¹ Thus, nothing in the Complaint shows that the rate paid by the Committee was commercially unreasonable.

The Complaint also argues that Respondents received a prohibited contribution when SSES purchased the very motorcoach that it rents to Respondents, because, in Complainant’s view, “the purpose of the bus purchase was solely for the Grimes Campaign.”²² This conclusion is based largely upon the complaint’s unsourced assertion that SSES purchased the coach “almost simultaneously with Alison Lundergan Grimes’ campaign launch.”²³ This type of “mere speculation” is not enough to support a finding of reason to believe.²⁴

Moreover, the Complainant fails to allege facts that, even if true, would constitute a violation of the Act. The Complaint does not allege that the Committee received title to the motorcoach, or even that SSES’s purchase of the vehicle was “authorized or requested” by the Committee, both of which would be necessary to show that Committee received an in-kind contribution.²⁵ The

¹⁸ Exhibited D (Jacqueline Pitts, *Grimes Campaign Disputes Possible Legal Trouble with Information Gathered on Bus Rental Rates*, CN2 Pure Politics (Aug. 19, 2014)).

¹⁹ *Id.*

²⁰ Factual and Legal Analysis, MURs 6295 and 6307 (Dec. 17, 2010). In that matter, the Commission declined to pursue enforcement where a campaign paid its treasurer \$95 a day for use of a 10 year-old coach that the treasurer had purchased two months before the campaign began, even where the respondents could not produce documentation of that valuation. *Id.* This matter presents an even stronger case for dismissal, as Respondents carefully determined the normal and usual charge for the vehicle, and have presented documentation of the same.

²¹ Joseph Gerth, *Grimes Campaign Denies Bus Rental Wrongdoing*, *Courier-Journal* (Aug. 20, 2014). To support its contention that the Committee did not pay the appropriate rate for use of the motorcoach, the complaint also cites to the sensationalist article in *Politico* that spurred this complaint, which stated that “[o]fficials at four bus companies said they typically charge \$1,500 to \$2,000 a day to rent a similarly sized bus.” However, the article does not reveal the source of these quotes, nor does it establish that these quotes are for a motorcoach with the same features and amenities as the motorcoach rented by the Committee. “[S]uch a newspaper article by itself -- citing an unidentified source’s statement that itself lacks any indicia of reliability -- is not adequate support for a finding of reason to believe that the Act has been violated.” First General Counsel’s Report, MUR 6506, at 5 (Feb. 15, 2013).

²² Complaint at 4.

²³ *Id.* at 3.

²⁴ Commissioners Mason, McDonald, Sandstrom, Smith, Thomas and Wold, Statement of Reasons, MUR 5141 (Apr. 17, 2002).

²⁵ See *Buckley v. Valeo*, 424 U.S. 1, n.43 (1976); see also Commissioners Bauerly and Weintraub, Statement of Reasons, MUR 5937 (Mar. 16, 2009); Commissioners Petersen, Hunter, and McGahn, Statement of Reasons, MUR 5937 (Mar. 10, 2009).

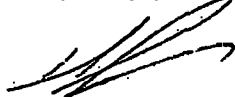
only thing of value that it received was limited use of the motorcoach on those days for which it paid. And for this, it paid the normal and usual charge, as determined by the applicable Commission rule.²⁶ Thus, even if the Complaint's allegations regarding the purchase of the bus were true, it would not support a finding of reason to believe.²⁷

III. Conclusion

Overall, the contemporaneous documentation maintained by the Committee shows that it paid SSES the normal and usual rental charge for a comparable commercial conveyance, and the Complaint fails to provide any truly comparable quote that shows otherwise.

For these reasons, Respondents respectfully request that the Commission find no reason to believe that they violated the Act, and dismiss this matter.

Very truly yours,



Marc E. Elias

Andrew H. Werbrock

Tyler J. Hagenbuch

Counsel to Alison Lundergan Grimes and Alison for Kentucky

²⁶ 11 C.F.R. § 100.93(d). For the same reasons, the Complaint's lengthy discussion of whether or not SSES rents motorcoaches in the normal course of business is also irrelevant. The Commission's regulation at 11 C.F.R. § 100.93 was promulgated specifically to determine the proper payment for private modes of transportation not offered on a commercial basis. See 68 Fed. Reg. at 69,583. Nothing in the Act or Commission regulations imposes, and the Complaint does not cite, any rule that requires a committee to obtain its means of transportation from a specialized vendor that provides such services in the normal course of its business.

²⁷ Commissioners Mason, McDonald, Sandstrom, Smith, Thomas and Wold, Statement of Reasons, MUR 5141 (Apr. 17, 2002).

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<http://mycn2.com/politics/grimes-campaign-disputes-possible-legal-trouble-with-information-gathered-on-bus-rental-rates>

Publication Date: August 19, 2014

Author: Jacqueline Pitts

CN|2



Grimes campaign disputes possible legal trouble with information gathered on bus rental rates

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After a Politico story stating that Democratic U.S. Senate candidate Alison Lundergan Grimes could be in hot water over potentially lower rental rates on a bus provided by a company owned by her father, the Grimes campaign says they did their due diligence to find a reasonable rate and there are no legal concerns with the matter.

The Grimes campaign says the story concerning the rate paid to rent her campaign bus from Signature Special Events Services—a company owned by Grimes' father Jerry Lundergan—is a plant from the McConnell campaign. Grimes' campaign staff has provided information to Pure Politics used to determine a daily rate for the bus.

The Grimes campaign confirmed a quote was given to them from Madison, Tennessee based company Staley Coach and Sales in September 2013, a company which sells similar buses but does not rent them. In the letter from Staley sales addressed to Jerry Lundergan, the company said that a bus the same year and size would be rented for a daily rate of \$150.00.

Coast to Coast Coach out of California, which features all buses of the same Prevost brand on their website, told the Grimes campaign that a bus comparable to the one used by the campaign would have a daily rate of \$300 to \$550 plus an additional fee of \$200 for a driver.

A similar figure is given by Star Coaches Inc on their website. The company says that they have models ranging from older buses, like the one Grimes uses, to the newest models and as a general estimate the company says their "entire fleet will fall in the range of \$350 / day up to \$750 / day." However, that price is for a daily rental and does not include the other two factors the company mentions on the site, which they say would run "between \$1,000 - \$1,400 / day when everything is factored into the equation."

Also in September, the campaign says North Side RV rentals quoted a bus for \$180.36 a day. Follow up calls with the North Side RV company and the campaign noted that a 2014 bus that is the largest available model would run at rates of \$1,550 for the first week, \$1,375 for the second week, and \$1,275 for each

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subsequent week. That bus used by the Grimes campaign is eleven years older and smaller than the bus discussed in the follow-up calls.

A representative for one of the companies told Pure Politics in a phone interview Tuesday that the rates for bus rentals change throughout the year with the summer months being the most expensive time of year before prices drop drastically in the fall. As for a bus the same size, year and model of the one used by the Grimes campaign, the representative told Pure Politics that most companies would not have the vehicle in their fleet because it would not rent due to the age.

The original Politico story cited quotes of \$1,500 to \$2,000 a day from other bus rental companies they had contacted about buses of similar sizes, but did not specify whether or not the buses were of the same year as the one used by the Grimes campaign.

Because of these quotes, a lawyer for the Grimes campaign says the campaign is within the Federal Election Commission rule in question.

"The law requires that the campaign pay "the normal and usual fare or rental charge for a comparable commercial conveyance of sufficient size to accommodate all campaign travelers." [11 C.F.R. 100.93(d).] In determining the appropriate rate, the campaign obtained quotes for the rental cost of a comparable vehicle from other providers in the Kentucky and regional market, and arrived at a reasonable reimbursement cost," Marc Elias of Perkins Cole said in a statement. "We have reviewed the campaign's methodology and agree that it complies with the applicable rules."

When asked by Pure Politics, the FEC said they have received calls about the bus rental rates in question but said they did not have a comment on the matter.

The McConnell campaign was not immediately available for comment on the figures.

Jacqueline Pitts

Jacqueline Pitts is the producer of Pure Politics, the only nightly program dedicated to Kentucky politics. In addition to booking guests and pulling all of the information from the field together into a half-hour show, Jacqueline is also a regular contributor to "The Grind." That's a weekly segment with the cn|2 political staff to take a closer look at some of the most important, most interesting and often least talked about happenings in Kentucky politics. Jacqueline is from Nashville, but she's a proud Western Kentucky University graduate. Follow Jacqueline on Twitter [@Jacqueline_cn2](#). She can be reached at 502-792-1114 or jacqueline.pitts@twcnews.com.

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